

FILED

JAN 16 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2010-3321

12 **DOROTHY RUDINE VENABLE**
13 **601 13th Street**
Marysville, CA 95901
14 **Vocational Nurse License No. VN 44044**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely
19 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
20 Psychiatric Technicians ("Board"), Department of Consumer Affairs.

21 2. On or about September 30, 1970, the Board issued Vocational Nurse License Number
22 VN 44044 to Dorothy Rudine Venable ("Respondent"). Respondent's vocational nurse license
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 June 30, 2013, unless renewed.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that
27 the Board may discipline the holder of a vocational nurse license for any reason provided in
28 Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

1 4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
2 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
3 period within which the license may be renewed, restored, reissued or reinstated. Pursuant to
4 Code section 2892.1, the Board may renew an expired license at any time within four years after
5 the expiration.

6 5. Code section 2878 states, in pertinent part:

7 The Board may suspend or revoke a license issued under this chapter [the
8 Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of the
9 following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

12 (1) Incompetence or gross negligence in carrying out usual nursing
13 functions.

14 (f) Conviction of a crime substantially related to the qualifications,
15 functions, and duties of a licensed vocational nurse, in which event the record of the
16 conviction shall be conclusive evidence of the conviction.

17 (j) The commission of any act involving dishonesty, when that action is
18 related to the duties and functions of the licensee . . .

19 6. Code section 2878.5 states, in pertinent part:

20 In addition to other acts constituting unprofessional conduct within the
21 meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional
22 conduct for a person licensed under this chapter to do any of the following:

23 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
24 unintelligible entries in any hospital, patient, or other record pertaining to narcotics or
25 dangerous drugs as specified in subdivision (b).

26 7. Code section 2878.6 states:

27 A plea or verdict of guilty or a conviction following a plea of nolo
28 contendere made to a charge substantially related to the qualifications, functions and
duties of a licensed vocational nurse is deemed to be a conviction within the meaning
of this article. The board may order the license suspended or revoked, or may decline
to issue a license, when the time for appeal has elapsed, or the judgment of conviction
has been affirmed on appeal or when an order granting probation is made suspending
the imposition of sentence, irrespective of a subsequent order under the provisions of

1 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty
2 and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
the accusation, information or indictment.

3 8. Code section 490, subdivision (a), states:

4 In addition to any other action that a board is permitted to take against a
5 licensee, a board may suspend or revoke a license on the ground that the licensee has
6 been convicted of a crime, if the crime is substantially related to the qualifications,
functions, or duties of the business or profession for which the license was issued.

7 9. Code section 4022 states:

8 "Dangerous drug" or "dangerous device" means any drug or device
9 unsafe for self-use in humans or animals, and includes the following:

10 (a) Any drug that bears the legend: "Caution: federal law prohibits
dispensing without prescription," "Rx only," or words of similar import.

11 (b) Any device that bears the statement: "Caution: federal law restricts
12 this device to sale by or on the order of a -----," "Rx only," or words of similar
import, the blank to be filled in with the designation of the practitioner licensed to use
13 or order use of the device.

14 (c) Any other drug or device that by federal or state law can be lawfully
dispensed only on prescription or furnished pursuant to Section 4006.

15 10. California Code of Regulations, title 16, section ("Regulation") 2519 states:

16 As set forth in Section 2878 of the Code, gross negligence is deemed
17 unprofessional conduct and is a ground for disciplinary action. As used in Section
2878 'gross negligence' means a substantial departure from the standard of care
18 which, under similar circumstances, would have ordinarily been exercised by a
competent licensed vocational nurse, and which has or could have resulted in harm to
19 the consumer. An exercise of so slight a degree of care as to justify the belief that
there was a conscious disregard or indifference for the health, safety, or welfare of the
20 consumer shall be considered a substantial departure from the above standard of care.

21 11. Regulation 2520 states:

22 As set forth in Section 2878 of the Code, incompetence is deemed
unprofessional conduct and is a ground for disciplinary action. As used in Section
23 2878 'incompetence' means the lack of possession of and the failure to exercise that
degree of learning, skill, care and experience ordinarily possessed and exercised by
24 responsible licensed vocational nurses.

25 COST RECOVERY

26 12. Code section 125.3 provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licentiate found to have committed a violation or violations of

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **DANGEROUS DRUGS**

4 13. "Metoprolol succinate" ("Metoprolol") is a beta - selective adrenoceptor blocking
5 agent indicated for the treatment of hypertension, angina pectoris, and heart failure. Metoprolol is
6 a dangerous drug within the meaning of Code section 4022 in that it requires a prescription under
7 federal law.

8 14. "Digoxin", a trade name for Lanoxin, is indicated for the treatment of mild to
9 moderate heart failure. Digoxin is a dangerous drug within the meaning of Code section 4022 in
10 that it requires a prescription under federal law.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Criminal Conviction)**

13 15. Respondent's license is subject to disciplinary action pursuant to Code sections 2878,
14 subdivision (f), and 490, subdivision (a), in that on or about June 4, 2012, in Sutter County
15 Superior Court, Case No. CR-M-12-0000092, Respondent pled no contest to violating Penal
16 Code section 471.5 (falsifying medical records), a misdemeanor, a crime substantially related to
17 the qualifications, functions, and duties of a licensed vocational nurse. The circumstances of the
18 crime are as set forth in paragraph 16.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(False Entries in Hospital/Patient Records)**

21 16. Respondent's license is subject to disciplinary action pursuant to Code section 2878,
22 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2878.5,
23 subdivision (e), in that in or about February 2011, while employed and on duty as a licensed
24 vocational nurse at Yuba Skilled Nursing Center ("facility"), Respondent falsified, or made
25 grossly incorrect, grossly inconsistent, or unintelligible entries in hospital, patient, or other
26 records pertaining to the dangerous drugs Metoprolol and Digoxin, as follows:

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1 **Patient A**

2 a. On or about February 18, 2011, the facility investigated whether patient A had been
3 receiving prescribed medications. The facility compared the patient's medication administration
4 records ("MAR"), the facility's pharmacy records and patient prescription history. The entries on
5 the MAR's was not consistent with the actual medication/pill count. As part of the investigation,
6 the facility made copies the MAR's with the inconsistent entries. On or about February 20, 2011,
7 Respondent informed the facility's Minimum Data Set Coordinator that the patient's family
8 expressed concerned Respondent had not been administering the patient's medications. On or
9 about February 22, 2011, the facility reviewed the patient's MAR's maintained in the patient's
10 chart and noted changes to the MARs from the MARs copied on February 18, 2011. Respondent
11 altered the MARs by making entries that reflected that while on duty and assigned to the patient,
12 Respondent administered all prescribed doses of Metoprolol to the patient since February 10,
13 2011.

14 **Patient B**

15 b. On or about February 23, 2011, the facility conducted a "Med Pass Test". The med
16 pass test was performed by removing patient B's prescribed Digoxin pills from the medication
17 cart. No other Digoxin was at the facility. Protocol requires the LVN to contact the pharmacy to
18 obtain a new prescription for the patient. After the facility removed the digoxin and the time for
19 Respondent was required to administer the prescription had passed, the facility reviewed the
20 patient's MAR. The MAR showed Respondent documented Digoxin had been provided to the
21 patient. Respondent subsequently admitted to the facility she had not given the Digoxin to the
22 patient.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Gross Negligence)**

25 17. Paragraph 16 is incorporated herein as though set forth at length. Respondent's
26 license is subject to disciplinary action pursuant to Code section 2878, subdivision (a)(1), on the
27 grounds of unprofessional conduct, because in or about February 2011, while employed and on
28 duty as a licensed vocational nurse at the facility, Respondent committed acts constituting gross

negligence as defined in Regulation 2519, as set forth in paragraph 16 above.

FOURTH CAUSE FOR DISCIPLINE

(Incompetence)

18. Paragraph 16 is incorporated herein as though set forth at length. Respondent's license is subject to disciplinary action pursuant to Code section 2878, subdivision (a)(1), on the grounds of unprofessional conduct, because on or about February 2011, while employed and on duty as a licensed vocational nurse at the facility Respondent committed acts constituting incompetence within the meaning of Regulation 2520.

FIFTH CAUSE FOR DISCIPLINE

(Dishonest Acts)

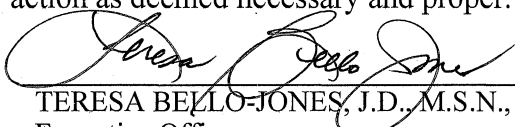
19. Paragraph 16 is incorporated herein as though set forth at length. Respondent's license is subject to disciplinary action pursuant to Code section 2878, subdivision (j), because on or about February 2011, Respondent committed acts involving dishonesty while licensed as a vocational nurse. Respondent's acts were dishonest within the meaning of section 2878.

PRAAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 44044, issued to Dorothy Rudine Venable;
2. Ordering Dorothy Rudine Venable to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: January 16, 2013


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

SA2012104334